

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of

Banco BNP Paribas Brasil S.A.,

For an Order Pursuant to 28 U.S.C. § 1782 to Conduct
Discovery for Use in Foreign Proceedings

Case No. 22 Misc. _____

EX PARTE APPLICATION OF BANCO BNP PARIBAS BRASIL S.A.
FOR DISCOVERY PURSUANT TO 28 U.S.C. § 1782

Applicant Banco BNP Paribas Brasil S.A., by and through its undersigned counsel, Kellner Herlihy Getty & Friedman LLP, along with a Memorandum of Law, the Declaration of Felipe Vieira, dated August August 30, 2022 and accompanying Exhibits, and the Declaration of Berenice Le Diascorn dated August 31, 2022 and accompanying Exhibits, respectfully submits this Application for judicial assistance pursuant to 28 U.S.C. § 1782, in obtaining documentary and testimonial evidence for use in a foreign proceeding. The Applicant seeks evidence from: Citibank, N.A., The Bank of New York Mellon, Société Générale, New York Branch, HSBC Bank USA, N.A., BNP Paribas USA, JPMorgan Chase Bank, N.A., Barclays Bank PLC, Deutsche Bank Trust Co. Americas, The Bank of Nova Scotia, New York Agency, UBS AG, Bank of America, N.A., Standard Chartered Bank US, Commerzbank AG, New York Branch, and The Clearing House Payments Company, LLC (together the “Respondents”), each of which is found in this District.

Applicant satisfies each of the three statutory requirements set forth in 28 U.S.C. § 1782.

First, the Respondents from whom discovery is sought are each found within the Southern District of New York. *Second*, the discovery sought by Applicant is “for use” in connection with contemplated claims within the pending proceedings described in the accompanying Declaration of Felipe Vieira before the 4th and 6th Civil Courts of the Judicial District of Maceió in the State

of Alagoas, Brazil (case records n. 0701235-97.2018.8.02.0001 and 0728189-20.2017.8.02.0001) (“Foreign Proceedings”). *Third*, Applicant is an interested person within its capacity as plaintiff and creditor in the Foreign Proceedings.

Further, each of the discretionary factors established in *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-65 (2004), militate in favor of granting this Application. *First*, there is no expectation that any of the Respondents from whom discovery is sought will be participants in the Foreign Proceedings and, as such, this Application constitutes the only practical and timely method for obtaining the needed evidence for use there. *Second*, there is no indication that the foreign tribunal would be unreceptive to the evidence. *Third*, the documentary and testimonial evidence sought through the instant Application would likely be admissible in the Foreign Proceedings and does not otherwise circumvent any proof-gathering restriction under the laws of Brazil. *Fourth*, the discovery sought through this Application is not unduly intrusive or burdensome because it is of limited scope. The proposed requests to the Respondents seek limited records relating to wire transactions for which the Respondents were involved as originating bank, beneficiary bank, intermediate or correspondent bank to CHIPS, Fedwire, or where the Respondents otherwise facilitated interbank funds transfers related to the Foreign Defendants, as well as documents relating thereto, for the limited period beginning January 1, 2017 to the present.

Accordingly, for the reasons described in the accompanying Memorandum of Law, the Declaration of Felipe Vieira and accompanying Exhibits, and the Declaration of Berenice Le Diascorn and accompanying Exhibits, Applicant respectfully requests that the Court issue an Order in the proposed or substantially similar form as filed with this Application (1) granting judicial assistance pursuant to 28 U.S.C. § 1782, (2) authorizing Applicant to serve subpoenas in

substantially similar form as attached hereto as Exhibit A, and (3) waiving service of the Application.

Dated: September 1, 2022

Respectfully submitted,

By: Berenice Le Diascorn
Berenice Le Diascorn

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